

REMARKS/ARGUMENTS

The non-final Office Action of September 2, 2009, has been reviewed and these remarks are responsive thereto. Claims 12, 13, 40, 41, 43, 44, 46, 47, and 50 have been canceled, new claims 56-63 have been added, and no claims have been amended. Claims 1, 7-10, 17, 21-24, 26-29, 31, 48, 49, and 51-64 are pending in this application upon entry of the present amendment. No new matter has been introduced. Reconsideration and allowance of the instant application are respectfully requested.

Priority Date of Pending Claims

The Office acknowledges Applicants' amended priority claim, but then argues that the Applicant should be denied the benefit of the earlier filing date for the pending claims. (Office Action, pp. 5-6.) Specifically, the Office Action argues on page 6, "the disclosures of [the earlier] applications fail to disclose comparing contrast levels, brightness levels, or color saturation levels among the snapshots and determining that the most presentable snapshot when the most presentable snapshot has a best contrast, a median brightness, or highest color saturation." As discussed below, the Office Action uses an improper legal standard for determining priority benefit, and at least independent claims 1, 17, 31, and 51 are entitled to the benefit of the earlier filing dates.

Priority dates are determined on a claim-by-claim basis, and a claim is entitled to an earlier priority date if the document to which priority is claimed meets the requirements of 35 U.S.C. § 112, first paragraph, with respect to that claim. In re Gosteli, 872 F.2d 1008, 1010 (Fed Cir. 1989). In this case, the Office argues that the pending claims are not entitled to the benefit of the earlier filing dates because certain features are allegedly absent from the earlier disclosures. However, none of the features mentioned by the Office (*i.e.*, comparing contrast levels, comparing brightness levels, comparing color saturation levels) is present in any of the pending independent claims. Therefore, Applicants maintain that at least independent claims 1, 17, 31, and 51 are entitled to the benefit of the earlier filing date of any priority application that discloses the invention of these claims in the manner provided by the first paragraph of 35 U.S.C. § 112, first paragraph. For example, U.S. Patent Application Serial No. 09/488,361, filed on January 16, 2000, now U.S. Patent No. 6,421,067, issued July 16, 2002 (the '067 patent)

discloses the invention of claims 1, 17, 31, and 51 for the reasons discussed in the Amendment filed December 8, 2008.

Rejections Under 35 U.S.C. § 103

Claims 1, 10, 12, 13, 17, 24, 26-29, 31, 40, 41, 46-51, 53, and 55 stand rejected under 35 U.S.C. § 103(a), as being unpatentable over U.S. Patent No. 6,405,371 (Oosterhout), in view of U.S. Patent No. 6,411,337 (Cove). Claims 7-9, 21-23, 43, 44, 52, and 54 stand rejected under 35 U.S.C. § 103(a), as being unpatentable over Oosterhout, in view of Cove, and further in view of U.S. Patent No. 6,549,643 (Toklu). Applicants respectfully traverse these rejections for at least the following reasons.

Independent Claims 1, 17, 31, and 51

As discussed in the Amendment filed June 11, 2009, independent claims 1, 17, 31, and 51 are not obvious over the purported combination of Oosterhout and Cove. Regarding claims 1 and 31, neither Oosterhout nor Cove, alone or in combination, teaches or suggests “displaying [a] reduced image of real-time programming on a side of the graphical representation of [a] polyhedron” The Office Action acknowledges on page 8 that Oosterhout does not disclose this feature, and furthermore, the Office never expressly alleges that Cove teaches this feature. Rather, the Office Action merely alleges that Cove teaches the broader feature “displaying a reduced image” on a side of a polyhedron. Even assuming, without admitting, that Cove teaches displaying a reduced image on a side of a polyhedron, this is not the same as the claimed feature “displaying [a] reduced image of real-time programming” on a side of a polyhedron.

Further, as discussed in the Amendment filed June 11, 2009, Applicants do not agree that Cove teaches displaying a reduced image on a side of a polyhedron. The relied-upon portions of Cove only describe a rotatable function menu in which different video functions are displayed and available for selection by the user. (See Figs. 2 and 6; col. 6, lines 52-61). Neither the cited portions nor any other portion of Cove teach or suggest wherein an image captured from a video stream is displayed in Cove’s rotatable function menu. Furthermore, since Cove’s function menu never permits a viewer to see thumbnail snapshots or video streams of real-time programming, the

disclosure of Cove could not support any teaching or suggestion of allowing viewers to preview multiple channels on a polyhedron, as described in the instant application.

Therefore, since Cove's displayed menu functions are not "reduced" images, nor are they images of "real-time programming," Cove does not teach or suggest "displaying [a] reduced image of real-time programming on a side of the graphical representation of [a] polyhedron" as recited in claims 1 and 31.

Claim 17 recites, in part, "display [a] first snapshot on a side of the graphical representation of [a] polyhedron." Therefore, claim 17 is not obvious over the purported combination of Oosterhout and Cove for at least similar reasons to those set forth above regarding claims 1 and 31.

Claim 51 recites, in part, "mapping each of the plurality of reduced size thumbnail images to distinct geometric surfaces of the 3-dimensional polyhedron...." Therefore, claim 51 is not obvious over the purported combination of Oosterhout and Cove for at least similar reasons to those set forth above regarding claims 1 and 31. Furthermore, claim 51 recites, "displaying a second graphical representation in which the 3-dimensional polyhedron is rotated within the electronic programming guide such that the geometric surface corresponding to the identified television channel is rendered in a larger portion of the screen than the corresponding surface in the first graphical representation." Applicants disagree that Fig 7A of Cove teaches this feature of claim 51 for the reasons discussed in the Amendment dated June 11, 2009. For at least this additional reason, Applicants submit that claim 51 is not obvious over the cited references.

Dependent Claims 7-10, 21-24, 26-29, 48, 49, and 52-64

Since Toklu also does not teach or suggest displaying reduced images, snapshots, or thumbnails of real-time programming on sides of a graphical representation of a polyhedron, as recited in independent claims 1, 17, 31, and 51, Toklu thus fails to overcome the above-discussed deficiencies of Oosterhout and Cove. Therefore, dependent claims 7-10, 21-24, 26-29, 48, 49, and 52-64 are not obvious in view of the cited references for at least the same reasons as their respective base claims, as well as based on the additional features recited therein.

For example, claim 53 recites, "rendering a plurality of reduced images of real-time programming on different sides of the polyhedron, wherein each of the plurality of reduced images of real-time programming corresponds to a snapshot from a different channel, and

wherein the different sides of the polyhedron are rendered on different portions of the electronic programming guide (EPG) display, the different portions being simultaneously visible and having different sizes and shapes in the electronic programming guide (EPG) display.” Claim 55 recites similar features. For reasons similar to those discussed above regarding claims 1 and 31, none of the cited references, alone or in combination, teaches or suggests the additional features of claims 53 and 55.

New Claims

Applicants have added new claims 56-64 to more fully claim the invention. Claims 56 and 59 recite “wherein each side of the polyhedron corresponds to a different video channel having a different video stream,” and wherein a user command is received “to rotate the graphical representation of the polyhedron” on the EPG display. For reasons similar to those discussed above regarding claims 1 and 31, none of the cited references teaches or suggests displaying a polyhedron, “wherein each side of the polyhedron corresponds to a different video channel having a different video stream,” as recited in claims 56 and 59.

Claims 57 and 60 depend respectively from claims 56 and 59, and further recite “wherein each of the different video channels corresponding to the different sides of the polyhedron is a video channel selected by a user.” Since none of Oosterhout, Cove, or Toklu, alone or in combination, teaches or suggests allowing a user to select video channels to be displayed as sides of a polyhedron, claims 57 and 60 are not obvious over the cited references for at least this additional reason.

Claims 58 and 61 also depend respectively from claims 56 and 59, and further recite “wherein each of the different video channels corresponding to the different sides of the polyhedron is a preselected video channel selected by a head-end administrator of the electronic programming guide.” For similar reasons, none of Oosterhout, Cove, or Toklu, alone or in combination, teaches or suggests allowing a head-end administrator to select video channels to be displayed as sides of a polyhedron. Therefore, claims 58 and 61 are not obvious over the cited references for at least this additional reason.

Claims 62-64 recites receiving user commands to “mov[e] the graphical representation of the polyhedron” and “resiz[e] the graphical representation of the polyhedron,” in the display of

the EPG. None of Oosterhout, Cove, or Toklu, alone or in combination, teaches or suggests moving or resizing a polyhedron in an electronic programming guide as recited. Therefore, claims 62-64 are not obvious over the cited references for at least this additional reason.

CONCLUSION

Based on the foregoing, Applicants respectfully submit that the application is in condition for allowance and a Notice to that effect is earnestly solicited. Should the Examiner believe that anything further is desirable in order to place the application in even better form for allowance, the Examiner is respectfully urged to contact Applicants' undersigned representative at the below-listed number.

Respectfully submitted,

BANNER & WITCOFF, LTD.

Dated this 2nd day of February, 2010

By: /Brian J. Brisnehan/
Brian Brisnehan, Registration No. 60,462
1100 13th St. N.W.
Washington, D.C. 20005-4051
Tel: (202) 824-3324
Fax: (202) 824-3001